

REMARKS

Claims 1-16 are pending in the present application. In the above amendments, claims 1, 2, 5, 6, 8, and 9-11 have been amended. Applicant believes that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

Rejection of Claims 1-10 Under 35 U.S.C. §102(e)

Claims 1-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by August *et al* (U.S. Patent No. 6,389,055).

Applicants have amended claims 1, 8, and 10 to overcome August. Applicant submits that claims 1, 8, and 10 are not anticipated by August for at least the following reasons.

August discloses in FIG. 8 three user inputs: “Save” at block 403, “Dial” at block 409, and “Send” at block 415. The “Save” function permits the user to manually generate a command causing the capture device to capture, store and display the encoded information. The “Dial” function permits the user to manually generate a command causing the capture device to initiate a call using stored dialing information. The “Send” function permits the user to manually generate a command causing the capture device to transmit information associated with the call.

August does not teach or suggest at least the amended parts of the claims related to the “additional information,” as now claimed in claims 1, 8, and 10. The “additional information” is distinguished from the “extracted information” to further differentiate claims 1, 8, and 10 from August.

Support for these amendment may be found, for example, in the present specification in paragraph 1036.

Claims 2 – 5, 15, and 16 are dependent on claim 1 and are not anticipated by August for at least the reasons noted for claim 1. These dependent claims also recite additional features not described by August. For example, claims 5 and 15 recites “an embedding device, carried with the portable device, for ... embedding the output from the processor with identification information associated with the portable communication device.” The rejection indicates that this feature is disclosed by August in column 6, lines 29-35. This section of August states “the encoded non-perceptible data can include associated telephone dialing, network routing, or other identification information, so that other portions of the captured data can be transmitted to an appropriate final destination or device.” The identification information in this section of August is included in the encoded non-perceptible data received by the capture device, and may correspond to linking information. August does not describe identification information for the portable communication device, which is embedded at the portable communication device, as claim 5 recites. Claim 16 further describes the identification information as the “serial number” of the portable communication device.

The applicant presented this argument in the previous response, which was not addressed by the examiner in the present Office Action.

Claim 6 recites “a receiver structured to receive a radio frequency signal containing hidden data and to convert the radio frequency signal into an electrical output signal containing the hidden data.” Claim 9 recites “a receiver configured to receive a broadcast radio frequency signal ... representative of (i) an audio signal and (ii) hidden data embedded in the audio signal.” These features of claims 6 and 9 allow portable communication device 40 to receive, e.g., a broadcast radio frequency signal directly from broadcast facility 20 and to bypass audio source 30. (See FIGS. 1 and 5 of the present application.) Applicant submits that these features are not disclosed by August. FIGS. 1, 3 and 5 of August show capture device 110 receiving an acoustic signal from monitor 10 and a visual signal from television 101 but not a radio frequency signal or a broadcast radio frequency signal directly from broadcast transmitter 102. The applicant submits that an acoustic signal is not the same as a radio frequency signal. The applicant presented this argument in the previous response, which was not addressed by the examiner in the present Office Action.

Claim 7 recites “a base station configured to ... extract hidden data from the processed signal, the extracted hidden data including identifier information for the portable communication device” This feature is not described by August for the reason noted above for claim 1. August does not teach or suggest that the base stations 109 or 140 in August (FIG. 5) are capable of extracting hidden data. In August, since the portable communication device 110 extract data, the base stations 109 or 140 have no need to extract data. The applicant presented this argument in the previous response, which was not addressed by the examiner in the present Office Action.

Accordingly, the §102(e) rejection of claims 1-10 should be withdrawn.

Rejection of Claims 11-16 Under 35 U.S.C. §103(a)

Claims 11-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over August in view of Dillon (U.S. Patent 6,351,467B1).

Dillon discloses a method for collecting advertising fees based on a number of selections of an advertisement on a web site.

Claim 11 has been amended to distinguish claim 11 over the combination of August and Dillon. Claim 11 has been amended to more closely relate elements of the claim, for example: “user selection of the extracted information to generate a commercial transaction,” “track the commercial transaction,” and “determining a revenue share amount for each of the at least one entity for the commercial transaction based upon the broadcast data signals and the user selection of the extracted information, wherein the revenue share amount for each entity for the commercial transaction is related to a service rendered by each entity to provide the hidden information related to the commercial transaction.”

In contrast, the billing information described by August is related to the purchase of item(s) offered for sale. Hence, the revenue recited in claim 11 is different from the revenue generated from a purchase transaction described by August. Further, Dillon relates to collection advertising fees based on a number of user selections, which is different from the presently claimed combination.

Claims 12 -14 are dependent on claim 11 and are patentable over August for at least the reasons noted for base claim 11.

Accordingly, the §103(a) rejection of claims 11-16 should be withdrawn.

CONCLUSION

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance. Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Applicants therefore respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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